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6 **BEFORE THE**
7 **THE BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues
11 Against:

12 **JAMES MICHAEL SHOOK**
13 **118 Dellbrook Avenue**
14 **San Francisco, CA 94131-1209**

15 **Registered Nurse License**

16 Applicant.

Case No. 2012-308

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

17 **FINDINGS OF FACT**

18 1. On or about November 15, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her
19 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs, filed Statement of Issues No. 2012-308 against James Michael Shook
(Applicant), before the Board of Registered Nursing (Board).

21 2. On or about January 12, 2011, the Board received an application for a Registered
22 Nurse License (Application) from Applicant. On or about January 10, 2011, Applicant certified
23 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
24 application.

25 3. On or about May 11, 2011, the Board issued a letter denying Applicant's Application.
26 On or about May 13, 2011, Applicant appealed the Board's denial of his application and requested
27 a hearing.
28

1 4. On or about November 18, 2011, Anh Ho, an employee of the Department of Justice,
2 served by Certified and First Class Mail a copy of the Statement of Issues No. 2012-308,
3 Statement to Respondent, Request for Discovery, Government Code sections 11507.5, 11507.6,
4 and 11507.7, Respondent/Applicant's Notice of Designation of Counsel (2 copies), and
5 Respondent/Applicant's Notice of Withdrawal of Request for Hearing (2 copies) to Applicant's
6 address on his request for hearing letter, which was: 118 Dellbrook Avenue, San Francisco, CA
7 94131-1209. A copy of the Statement of Issues is attached as Exhibit A, and is incorporated
8 herein by reference.

9 5. Service of the Statement of Issues was effective as a matter of law under the
10 provisions of Government Code section 11505, subdivision (c)

11 6. On or about January 2, 2012, Applicant signed and delivered a Notice of Withdrawal
12 of Request for Hearing. (Exhibit B.)

13 7. Business and Professions Code section 118 states, in pertinent part:

14 (a) The withdrawal of an application for a license after it has been filed with a
15 board in the department shall not, unless the board has consented in writing to such
16 withdrawal, deprive the board of its authority to institute or continue a proceeding
against the applicant for the denial of the license upon any ground provided by law or
to enter an order denying the license upon any such ground.

17 8. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
20 respondent; and where the burden of proof is on the respondent to establish that the
respondent is entitled to the agency action sought, the agency may act without taking
21 evidence.

22 9. Pursuant to its authority under Government Code section 11520, the Board or its
23 successor finds Applicant is in default. The Board or its successor will take action without further
24 hearing and, based on evidence on file herein, finds that the allegations in Statement of Issues No.
25 2012-308 are true.

26 **DETERMINATION OF ISSUES**

27 1. Based on the foregoing findings of fact, Applicant James Michael Shook has
28 subjected his application for a Registered Nurse License to denial.

1 2. Service of Statement of Issues No. 2012-308 and related documents was proper and
2 in accordance with the law.

3 3. The agency has jurisdiction to adjudicate this case by default.

4 4. The Board of Registered Nursing is authorized to deny Applicant's Application based
5 upon the following violations alleged in the Statement of Issues:

6 a. Business and Professions Code section 2761(a)(4) – out of state discipline;

7 b. Business and Professions Code sections 2736, 2761(a), 2761(f), 2762(b),
8 2762(c), and 480 – criminal convictions.

9 5. Pursuant to Business and Professions Code section 486, the earliest date Applicant
10 may file a Request to Reapply/Repeat Examination is one year from the effective date of this
11 Decision. At such time reapplication is made, all competent evidence of rehabilitation presented
12 will be considered.

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DECISION AND ORDER

IT IS SO ORDERED that the application for a Registered Nurse License, filed by Applicant James Michael Shook, is denied.

Pursuant to Government Code section 11520, subdivision (c), Applicant may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Applicant. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 10, 2012.

It is so ORDERED July 12, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

40519819.DOC
DOJ Matter ID: SF2011201521

Attachment:
Exhibit 1: Statement of Issues

Exhibit A

Statement of Issues No. 2012-308

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
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BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:

Case No. **2012-308**

STATEMENT OF ISSUES

12 **JAMES MICHAEL SHOOK**
13 **118 Dellbrook Avenue**
San Francisco, CA 94131-1209

14 Applicant.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
19 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
20 Consumer Affairs.

21 2. On or about January 12, 2011, the Board of Registered Nursing, Department of
22 Consumer Affairs received an application for a Registered Nurse License from James Michael
23 Shook (Applicant). On or about January 10, 2011, James Michael Shook certified under penalty
24 of perjury to the truthfulness of all statements, answers, and representations in the application.
25 The Board denied the application on May 11, 2011.

26 **JURISDICTION**

27 3. This Statement of Issues is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a
3 license when it finds that the applicant has committed any acts constituting grounds for denial of
4 licensure under section 480 of that code.

5 5. Section 2761 of the Code states:

6 "The board may take disciplinary action against a certified or licensed nurse or deny an
7 application for a certificate or license for any of the following:

8 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

9 ...

10 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
11 against a health care professional license or certificate by another state or territory of the United
12 States, by any other government agency, or by another California health care professional
13 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
14 action.

15 ...

16 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
17 functions, and duties of a registered nurse, in which event the record of the conviction shall be
18 conclusive evidence thereof.

19 ..."

20 6. Section 2762 of the Code states:

21 "In addition to other acts constituting unprofessional conduct within the meaning of this
22 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
23 chapter to do any of the following:

24 ...

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
28

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof."

8
9 7. Section 480 of the Business and Professions Code provides, in pertinent part, that a
10 board may deny a license if the applicant has been convicted of a crime substantially related to
11 the qualifications, functions or duties of the business or profession for which application is made,
12 has committed any act involving dishonesty, fraud or deceit, has committed any act which if done
13 by a licensee would be grounds for suspension or revocation of a license, or has knowingly made
14 a false statement of fact required to be revealed in the application.

15 FIRST CAUSE FOR DENIAL OF APPLICATION

16 (OUT OF STATE DISCIPLINE)

17 8. Applicant's application is subject to denial under section 2761(a)(4) in that
18 Applicant's Pennsylvania registered nursing license was revoked. The circumstances are as
19 follows:

20 a. On or about August 1, 2003, the Commonwealth of Pennsylvania Department
21 of State, State Board of Nursing ordered Applicant's license to practice professional nursing
22 revoked in a disciplinary proceeding entitled *Commonwealth of Pennsylvania Bureau of*
23 *Professional and Occupational Affairs vs. James M. Shook*, Docket Number 0315-51-03. The
24 revocation was ordered on the grounds that Applicant failed to disclose to the Pennsylvania Board
25 of Nursing on renewal applications that between 1991 and 1996 he was convicted in the Court of
26 Common Pleas, Allegheny County, Pennsylvania of four counts of driving under the influence of
27 alcohol or controlled substances in violation of 75 Pa. Vehicle Code section 3731(a)(1).
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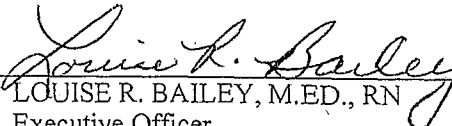
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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

- 4 1. Denying the application of James Michael Shook for a Registered Nurse License;
5 2. Taking such other and further action as deemed necessary and proper.

6 DATED: November 15, 2011

7 
8 LOUISE R. BAILEY, M.ED., RN
9 Executive Officer
10 Board of Registered Nursing
11 Department of Consumer Affairs
12 State of California
13 Complainant

11 SF2011201521
12 20550367.doc

Exhibit A

Statement of Issues Case No. 2012-308

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Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
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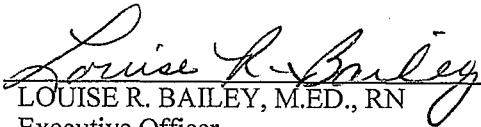
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